

1 BILL NO. S-86-03-03

2 SPECIAL ORDINANCE NO. S-

43-86

3
4 AMENDED
5 ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE
6 TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND,
7 SERIES 1986 (MARK P. SHAMBAUGH PROJECT)
8 AND APPROVING OTHER ACTIONS IN RESPECT THERETO

9 WHEREAS, the Fort Wayne Economic Development Commission
10 has rendered its Project Report for the Mark P. Shambaugh Project
11 regarding the financing of proposed economic development facili-
12 ties for the Project and the Fort Wayne Plan Commission has com-
13 mented favorably thereon; and

14 WHEREAS, the Fort Wayne Economic Development Commission
15 conducted a public hearing on March 6, 1986, and also adopted a
16 resolution on March 6, 1986, which Resolution has been
17 transmitted hereto, finding that the financing of certain econo-
18 mic development facilities of Mark P. Shambaugh complies with the
19 purposes and provisions of I.C. 36-7-11.9 and 12 and that such
20 financing will be of benefit to the health and welfare of the
21 City of Fort Wayne and its citizens; and

22 WHEREAS, the Fort Wayne Economic Development Commission has
23 heretofore approved and recommended the adoption of this form of
24 Ordinance by this Common Council, has considered the issue of
25 adverse competitive effect and has approved the forms of and has
26 transmitted for approval by the Common Council the Trust
27 Indenture, Loan Agreement, Mortgage and Security Agreement,
28 Guaranty Agreement, and Lease; now therefore,

29 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
30 WAYNE, INDIANA, THAT:

31 SECTION 1. It is hereby found that the financing of the
32 economic development facilities referred to in the Loan Agreement
approved by the Fort Wayne Economic Development Commission and pre-
sented to this Common Council, the issuance and sale of the reve-

1 nue bond, the loan of the proceeds of the revenue bond to Mark P.
2 Shambaugh for the acquisition and construction of such facilities
3 and the equipping thereof, and the payment of the revenue bond by
4 the payments of Mark P. Shambaugh and Shambaugh & Son, Inc.,
5 Lessee, under the Loan Agreement and Lease, complies with the
6 purposes and provisions of I.C. 36-7-11.9 and 12 and will be of
7 benefit to the health and welfare of the City of Fort Wayne and
8 its citizens.

9 SECTION 2. The economic development facilities will con-
10 sist of acquisition of real estate and construction of a new
11 warehouse/fabrication/office facility for lease to Shambaugh &
12 Son, Inc. to be located at the northwest corner of Cook Road and
13 vacated Conrail railroad immediately north of Smith Field, Fort
14 Wayne, Indiana (the "Project").

15 SECTION 3. At the public hearing held by the Fort Wayne
16 Economic Development Commission, the Commission considered whether
17 the economic development facilities would have an adverse com-
18 petitive effect on any similar facilities located in the City of
19 Fort Wayne, and found, based on special findings of fact set forth
20 in the Resolution transmitted hereto, that the facilities would not
21 have an adverse competitive effect. This Common Council hereby con-
22 firms the findings set forth in the Commission's Resolution, and
23 concludes that the economic development facilities will not have an
24 adverse competitive effect on any other similar facilities in the
25 City of Fort Wayne, and the facilities will be of benefit to the
26 health and welfare of the citizens of the City of Fort Wayne.

27 SECTION 4. The substantially final forms of the Trust
28 Indenture, Loan Agreement, Mortgage and Security Agreement,
29 Guaranty Agreement and Lease, approved by the Fort Wayne Economic
30 Development Commission are hereby approved and each shall be
31 incorporated herein by reference and shall be inserted in the
32 minutes of the Common Council and kept on file by the Clerk. In

1 accordance with the provisions of I.C. 36-1-5-4, two (2) copies
2 of each of said documents are on file in the office of the Clerk
3 for public inspection.

4 SECTION 5. The City of Fort Wayne shall issue its Economic
5 Development Revenue Bond Series 1986 (Mark P. Shambaugh Project)
6 in the total principal amount not to exceed Three Million One
7 Hundred Thousand Dollars (\$3,100,000.00) and Maturing March 1,
8 2001. Said bond is to be issued for the purpose of procuring
9 funds to pay the costs of acquisition, construction and equipping
10 of the economic development facilities as more particularly set
11 out in the Loan Agreement, Mortgage and Security Agreement and
12 Trust Indenture incorporated herein by reference, which bond
13 will be payable as to principal, premium, if any, and interest
14 from the payments made by Mark P. Shambaugh as provided for under
15 the Loan Agreement, Mortgage and Security Agreement and Trust
16 Indenture and as provided for in the Lease. The bond shall be
17 issued in fully registered form in an initial denomination of the
18 entire amount issued and shall be transferable and issuable in
19 other denominations as provided for in the Trust Indenture. The
20 bond shall be redeemable as provided in Article V of the Trust
21 Indenture. Final payment of this bond is payable at the Office
22 of the Trustee or its successor in trust. All other payments are
23 payable by check or draft mailed or delivered to the registered
24 owner as provided in the Trust Indenture. The bond shall never
25 constitute a general obligation of, an indebtedness of, or a
26 charge against the general credit of the City of Fort Wayne, nor
27 is the bond payable in any manner from revenues raised by taxa-
28 tion.

29 SECTION 6. The Mayor and Clerk are authorized and directed
30 to sell such bond to the purchasers thereof at a price of not less
31 than 100% of the principal amount thereof. The bond shall bear
32 interest at a rate of 75% of the Reference Rate of Fort Wayne

1 National Bank as in effect on the Issue Date and as in effect on
2 each March 1, June 1, September 1, and December 1 thereafter, sub-
3 ject to the occurrences of events which would cause the rate to
4 change, which occurrences are provided for in the Trust Indenture.

5 SECTION 7. The Mayor and Clerk are authorized and directed
6 to execute, attest, affix or imprint by any means the City seal to
7 these documents to be executed by the City which are approved herein
8 on behalf of the City and any other document which may be necessary
9 or desirable to consummate the transaction, including the bond
10 authorized herein. The Mayor and Clerk are hereby expressly
11 authorized to approve any modifications or additions to the docu-
12 ments to be executed by the City which are approved herein which
13 take place after the date of this Ordinance with the review and
14 advice of the City Attorney; it being the express understanding of
15 this Common Council that said documents to be executed by the City
16 are in substantially final form as of the date of this Ordinance.
17 The approval of said modifications or additions shall be conclusi-
18 vely evidenced by the execution and attestation thereof and the
19 affixing of the seal thereto or the imprinting of the seal thereon;
20 provided, however, that no such modification or addition shall
21 change the maximum principal amount of, interest rate on or term of
22 the bond as approved by the Common Council by this Ordinance
23 without further consideration by the Common Council. The signatures
24 of the Mayor and Clerk on the bond may be either manual or fac-
25 simile signatures. The Clerk is authorized to arrange for delivery
26 of such bond to the Trustee named in the Trust Indenture, and
27 payment for the bond will be made to the Trustee named in the Trust
28 Indenture and after such payment the bond will be delivered by the
29 Trustee to the purchasers thereof. The Mayor and Clerk shall exe-
30 cute and the Clerk shall deliver the bond to the Trustee within
31 ninety days of the adoption of this ordinance. The bond shall be
32 dated the date of authentication thereof.

SECTION 8. The provisions of this Ordinance and the Trust Indenture securing the bond shall constitute a contract binding between the City of Fort Wayne and the holder of the Economic Development Revenue Bond, Series 1986 (Mark P. Shambaugh Project), and after the issuance of said bond, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holder so long as said bond or the interest thereon remains unpaid.

SECTION 9. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

COUNCILMAN

ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
AND APPROVED AS TO FORM.

John J. Wernet, Attorney for the
Economic Development Commission
Dated this 24th day of March, 1986.

APPROVED AS TO FORM AND LEGALITY.

Bruce O. Boxberger, City Attorney
Dated this 24th day of March, 1986.

Read the first time in full and on motion by Dirigunta, seconded by Stier, and duly adopted, read the second time by title and referred to the Committee Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____.M., E.S

DATE: 3-11-86.

Marilyn Eckhoff Deputy Clerk
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Dirigunta, seconded by Stier, and duly adopted, placed on its passage. PASSED (LOST) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____	_____
<u>BRADBURY</u>	<u>✓</u>	_____	_____	_____	_____
<u>BURNS</u>	<u>✓</u>	_____	_____	_____	_____
<u>EISBART</u>	<u>✓</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	<u>✓</u>	_____	_____	_____	_____
<u>HENRY</u>	<u>✓</u>	_____	_____	_____	_____
<u>REDD</u>	<u>✓</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	<u>✓</u>	_____	_____	_____	_____
<u>STIER</u>	<u>✓</u>	_____	_____	_____	_____
<u>TALARICO</u>	<u>✓</u>	_____	_____	_____	_____

DATE: 3-25-86

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as ~~(ANNEXATION)~~ (APPROPRIATION) ~~(GENERAL)~~ (SPECIAL) (ZONING MAP) ORDINANCE ~~(RESOLUTION)~~ NO. S-43-86 on the 25th day of March, 1986,

ATTEST:

(SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Samuel J. Talarico
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 26th day of March, 1986, at the hour of 11:20 o'clock P..M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 27th day of March, 1986, at the hour of 10⁰⁰ o'clock A..M., E.S.T.

Win Moses, Jr.
WIN MOSES, JR., MAYOR

1 BILL NO. S-86-03-03

2 SPECIAL ORDINANCE NO. S-_____

3 ORDINANCE AUTHORIZING THE CITY OF FORT WAYNE
4 TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND,
5 SERIES 1986 (MARK P. SHAMBAUGH PROJECT)
6 AND APPROVING OTHER ACTIONS IN RESPECT THERETO

7 WHEREAS, the Fort Wayne Economic Development Commission
8 has rendered its Project Report for the Mark P. Shambaugh Project
9 regarding the financing of proposed economic development facili-
10 ties for the Project and the Fort Wayne Plan Commission has com-
11 mented favorably thereon; and

12 WHEREAS, the Fort Wayne Economic Development Commission
13 conducted a public hearing on March 6, 1986, and also adopted a
14 resolution on March 6, 1986, which Resolution has been
15 transmitted hereto, finding that the financing of certain econo-
16 mic development facilities of Mark P. Shambaugh complies with the
17 purposes and provisions of I.C. 36-7-11.9 and 12 and that such
18 financing will be of benefit to the health and welfare of the
19 City of Fort Wayne and its citizens; and

20 WHEREAS, the Fort Wayne Economic Development Commission has
21 heretofore approved and recommended the adoption of this form of
22 Ordinance by this Common Council, has considered the issue of
23 adverse competitive effect and has approved the forms of and has
24 transmitted for approval by the Common Council the Trust
25 Indenture, Loan Agreement, Mortgage and Security Agreement,
26 Guaranty Agreement, and Lease; now therefore,

27 BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT
28 WAYNE, INDIANA, THAT:

29 SECTION 1. It is hereby found that the financing of the
30 economic development facilities referred to in the Loan Agreement
31 approved by the Fort Wayne Economic Development Commission and pre-
32 sented to this Common Council, the issuance and sale of revenue
bonds, the loan of the proceeds of the revenue bonds to Mark P.

Shambaugh for the acquisition and construction of such facilities and the equipping thereof, and the payment of the revenue bond by the payments of Mark P. Shambaugh and Shambaugh & Son, Inc., Lessee, under the Loan Agreement and Lease, complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and will be of benefit to the health and welfare of the City of Fort Wayne and its citizens.

SECTION 2. The economic development facilities will consist of acquisition of real estate and construction of a new warehouse/fabrication/office facility for lease to Shambaugh & Son, Inc. to be located at the northwest corner of Cook Road and vacated Conrail railroad immediately north of Smith Field, Fort Wayne, Indiana (the "Project").

SECTION 3. At the public hearing held by the Fort Wayne Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in the City of Fort Wayne, and found, based on special findings of fact set forth in the Resolution transmitted hereto, that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in the City of Fort Wayne, and the facilities will be of benefit to the health and welfare of the citizens of the City of Fort Wayne.

SECTION 4. The substantially final forms of the Trust Indenture, Loan Agreement, Mortgage and Security Agreement, Guaranty Agreement and Lease, approved by the Fort Wayne Economic Development Commission are hereby approved and each shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies

1 of each of said documents are on file in the office of the Clerk
2 for public inspection.

3 SECTION 5. The City of Fort Wayne shall issue its Economic
4 Development Revenue Bond Series 1986 (Mark P. Shambaugh Project)
5 in the total principal amount of Three Million One Hundred
6 Thousand Dollars (\$3,100,000.00) and Maturing March 1, 2001.
7 Said bonds are to be issued for the purpose of procuring funds to
8 pay the costs of acquisition, construction and equipping of the
9 economic development facilities as more particularly set out in
10 the Loan Agreement, Mortgage and Security Agreement and Trust
11 Indenture incorporated herein by reference, which bonds will be
12 payable as to principal, premium, if any, and interest from the
13 payments made by Mark P. Shambaugh as provided for under the Loan
14 Agreement, Mortgage and Security Agreement and Trust Indenture
15 and as provided for in the Lease. The bonds shall be issued in
16 fully registered form in the initial denomination of
17 \$3,100,000.00 and shall be transferable and issuable in other
18 denominations as provided for in the Trust Indenture. The bonds
19 shall be redeemable as provided in Article V of the Trust
20 Indenture. Final payment of this bond is payable at the Office
21 of the Trustee or its successor in trust. All other payments are
22 payable by check or draft mailed or delivered to the registered
23 owner as provided in the Trust Indenture. The bonds shall never
24 constitute a general obligation of, an indebtedness of, or a
25 charge against the general credit of the City of Fort Wayne, nor
26 are the bonds payable in any manner from revenues raised by taxa-
27 tion.

28 SECTION 6. The Mayor and Clerk are authorized and directed
29 to sell such bonds to the purchasers thereof at a price of not less
30 than 100% of the principal amount thereof. The bonds shall bear
31 interest at a rate of 75% of the Reference Rate of Fort Wayne
32 National Bank as in effect on the Issue Date and as in effect on

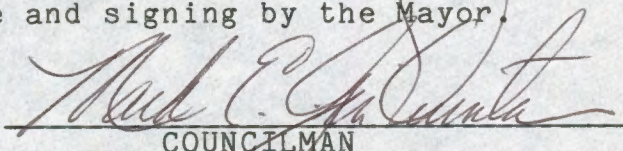
each March 1, June 1, September 1, and December 1 thereafter, subject to the occurrences of events which would cause the rate to change, which occurrences are provided for in the Trust Indenture.

SECTION 7. The Mayor and Clerk are authorized and directed to execute, attest, affix or imprint by any means the City seal to these documents to be executed by the City which are approved herein on behalf of the City and any other document which may be necessary or desirable to consummate the transaction, including the bonds authorized herein. The Mayor and Clerk are hereby expressly authorized to approve any modifications or additions to the documents to be executed by the City which are approved herein which take place after the date of this Ordinance with the review and advice of the City Attorney; it being the express understanding of this Common Council that said documents to be executed by the City are in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, interest rate on or term of the bonds as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk on the bonds may be either manual or facsimile signatures. The Clerk is authorized to arrange for delivery of such bonds to the Trustee named in the Trust Indenture, and payment for the bonds will be made to the Trustee named in the Trust Indenture and after such payment the bonds will be delivered by the Trustee to the purchasers thereof. The Mayor and Clerk shall execute and the Clerk shall deliver the bonds to the Trustee within ninety days of the adoption of this ordinance. The bonds shall be dated the date of authentication thereof.

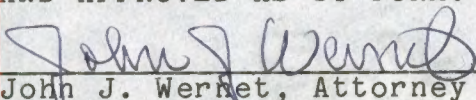
SECTION 8. The provisions of this Ordinance and the Trust

1 Indenture securing the bonds shall constitute a contract binding
2 between the City of Fort Wayne and the holder of the Economic
3 Development Revenue Bond, Series 1986 (Mark P. Shambaugh
4 Project), and after the issuance of said bonds, this Ordinance
5 shall not be repealed or amended in any respect which would
6 adversely affect the rights of such holders so long as any of
7 said bonds or the interest thereon remains unpaid.

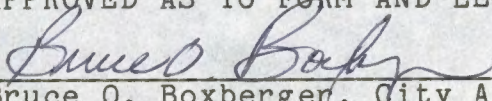
8 SECTION 9. This Ordinance shall be in full force and
9 effect from and after its passage and signing by the Mayor.

10 
11 COUNCILMAN

12 ADOPTED BY ECONOMIC DEVELOPMENT COMMISSION
13 AND APPROVED AS TO FORM.

14 
15 John J. Wernet, Attorney for the
16 Economic Development Commission
17 Dated this ____ day of March, 1986.

18 APPROVED AS TO FORM AND LEGALITY.

19 
20 Bruce O. Boxberger, City Attorney
21 Dated this ____ day of March, 1986.
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BILL NO. S-86-03-03

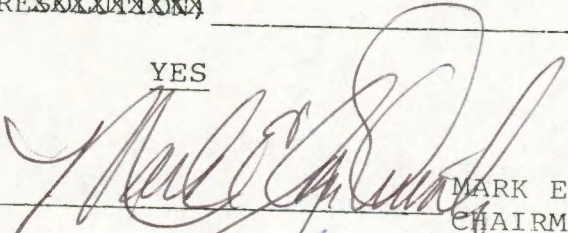
REPORT OF THE COMMITTEE ON FINANCE

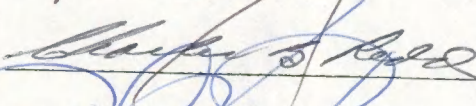
WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) AUTHORIZING THE CITY OF FORT
WAYNE TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND, SERIES 1986
(MARK P. SHAMBAUGH PROJECT) AND APPROVING OTHER ACTIONS IN
RESPECT THERETO

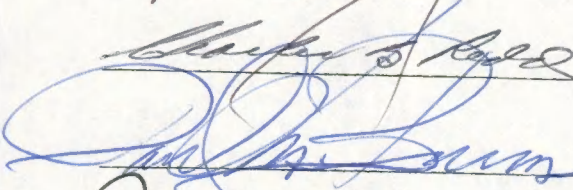
HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID (ORDINANCE)
(~~RESOLUTION~~)

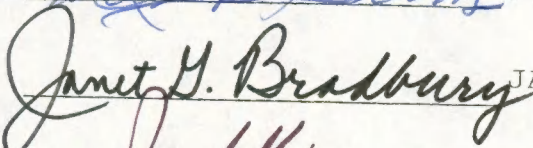
YES

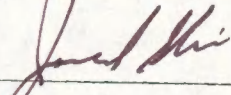
NO


MARK E. GIAQUINTA
CHAIRMAN


CHARLES B. REDD
VICE CHAIRMAN


PAUL M. BURNS


JANET G. BRADBURY


JAMES S. STIER

CONCURRED IN 3-25-86

SANDRA E. KENNEDY
CITY CLERK